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REMARKS

Claims 13, 27 and 28 have been amended and Claim 36 has been added. Claims 1-36, as amended, remain in the application. No new matter is added by these amendments.

In the Office Action dated July 18, 2003, Paper No. 10, the Examiner rejected Claims 1, 2, 4-8, 10-23, 26-29 and 33-35 under 35 U.S.C. § 102(b) as being anticipated by the Prudential Securities web site (www.prusec.com) dated January 17, 1998. The Examiner stated that as per independent Claims 1 and 7, the Prudential reference discloses a method (system) for determining certain personal characteristics and preferences of an individual, comprising the steps of: subjecting the individual to one or more personality tests and recording the results in a database; subjecting the individual to one or more application specific tests and recording the results in a database; subjecting the individual to one or more situational action response tests and recording the results in a database; scoring the results of said tests and classifying the test results based upon a predetermined set of rules and storing the classified results in said database; and comparing said classified results to a predetermined set of references to develop a set of data representing preferences and other characteristics of the individual.

The Prudential reference includes a three page section entitled "life's financial concerns" that presents an "Investment Personality Quiz" to a user. There is no provision for identifying the user. An initial section of the Quiz sets forth three categories related to information about the gender, age and annual household income of the user. The Prudential reference does not indicate that this information is mandatory or even used in the Quiz. Then the quiz sets forth twenty questions each having four possible answers. After the user has submitted the selected answers, the Quiz displays a point total "score" at the beginning of a three page display of three "zones" each associated with a range of points. The Prudential reference does not describe how the point ranges were selected for the three "zones". The possible scores range from 20 to 80 points so that a logical conclusion is that the answers to each question are assigned values of one through four points and the user's "score" is a simple numerical total of the points assigned to the selected answers. Each "zone" displays a summary of an associated investment personality and a list of suggestions. There is no provision for storing the Quiz answers for subsequent use.

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Claims 1 and 7 include a step and a means respectively of "subjecting the individual to one or more personality tests and recording the results in a database", which step and means are not shown in or suggested by the Prudential reference. The "Investment Personality Quiz" on the Prudential website would be classified as an "application specific" test, since it is designed only for the limited application of determining a user's investment risk preference. Although it is titled "Investment Personality Quiz", the survey is designed to focus on how the user views his/her personal investment situation. A true personality test would provide a more generalized framework and categorization of individual traits and tendencies. Such a generalized framework could then be applied across multiple applications, such as communicating with others, career advice, financial advice, etc.

The Prudential reference does not state whether the data set results from the Quiz are stored in a database. No login is required in order to take the Quiz, thereby allowing anonymous test taking to occur. See the separate portion of the website where an account number and password are required to access stored information related to existing financial accounts. There is no mention that the Quiz results can be retrieved by the user or that the user has an option of "saving" his/her results. All of these factors indicate that the Quiz results are not stored in a database.

Claims 1 and 7 include a step and a means respectively of "subjecting the individual to one or more application specific tests and recording the results in a database". If the Examiner is correct that the Prudential "Investment Personality Quiz" is a personality test, Applicants' "application specific" step and means are not shown in or suggested by the Prudential reference. Applicants' above comments regarding a lack of storing in a database also apply here.

Claims 1 and 7 also include a step and a means respectively of "subjecting the individual to one or more situational action response tests and recording the results in a database". A situational action response test measures and records observed behavior. Observing behavior is beyond the scope of what Prudential tries to accomplish with its Investment Personality Quiz. If the Examiner is correct that the Prudential "Investment Personality Quiz" is a personality test, Applicants' "situational action response" step and means are not shown in or suggested by the Prudential reference. Applicants' above comments regarding a lack of storing in a database also apply here.

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Claims 1 and 7 further include a step and a means respectively of "scoring the results of said tests and classifying the test results based upon a predetermined set of rules and storing the classified results in said database". After submitting the results of the Prudential Quiz, the user is presented with a raw number or score and a "zone" title. The user then must find that "zone" in the three page display. No classification of the test results occurs. The Prudential system merely derives a total score for the user. There is also no mention that there is a storing of the resultant "zone" in a database. Applicants' above comments regarding a lack of storing in a database also apply here.

Finally, Claims 1 and 7 further include a step and a means respectively of "comparing said classified results to a predetermined set of references to develop a set of data representing preferences and other characteristics of the individual". There is no comparing of the classification result to a predetermined set of references to determine a user's preferences and characteristics in the Prudential reference. The Quiz is complete when the numeral score is presented and no steps are performed after the user finds the indicated "zone" manually. There is no teaching in the Prudential reference that a predetermined set of references is used.

The Examiner stated that, as per Claims 2 and 8, the Prudential reference discloses the step of: using said set of data to provide compatible content, advice or personal introductions to said individual. On the Prudential website, an individual is subjected to Quiz that is designed to measure the investment risk preference of the test taker. After submitting the Quiz results, the user is presented with a raw number or "score" and a "zone" title. The user then must manually locate the matching "zone" section. If the Prudential "zones" can be considered as including either "content" or "advice" as defined by Applicants' claims, there is no step of using a set of developed data "to provide compatible content, advice or personal introductions to said individual". The Prudential website displays all of the "zones" no matter what the actual point total result. Of course, the Prudential website does not provide personal introductions.

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The Prudential reference does not describe how the point ranges were selected for the three "zone" sections. There is no suggestion that the Prudential website is classifying the test results based upon a predetermined set of rules, as defined by Claims 1 and 7, because two users who respond identically to all questions except any one of the twenty questions can have point totals (39 and 40, or 59 and 60) that match up with different "zones". Furthermore, it appears to be possible for two users to select different answers the questions and still obtain the same point total "score".

The Examiner stated that, as per Claims 4 and 10, the Prudential reference discloses wherein said application specific tests are selected from the group consisting of personality tests, demographics tests, on-line and offline behavioral response tests, psychographic tests, and life style and quality of life tests. There is only one test in the Prudential reference there is no teaching that the Investment Personality Quiz was selected from a group of application specific tests.

The Examiner stated that, as per Claims 5 and 11, the Prudential reference discloses wherein said predetermined set of references include characteristics selected from the group consisting of personality traits, skills, competencies, attitudes, beliefs, behaviors, psychographic, demographic and resume items. As stated above, there is no teaching in the Prudential reference that a predetermined set of references is used.

The Examiner stated that, as per Claims 6 and 12, the Prudential reference discloses wherein the format of each said test is selected from the group consisting of text presentation, video presentation, audio presentation, photographic/image presentation, and combinations thereof. There is only one test format in the Prudential reference there is no teaching that the Investment Personality Quiz format was selected from a group of formats.

The Examiner stated that, as per independent Claim 13, the Prudential reference discloses a method for determining personality type to facilitate the delivery of personality based products or services comprising the steps of: a. providing access for individual users to a personality typing system; b. identifying a user accessing the system and storing user related identification data in a system database; c. collecting data from the identified user including test results and responses to questions and storing the data in the database; d. scoring the results of the tests, comparing the test results and the question responses with a predetermined set of references to

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develop a set of characteristic data of the identified user and determining a personality type of the identified user from the characteristic data; and e. matching the personality type of the identified user with a corresponding personality based product or service.

There is no teaching in the Prudential reference that a user of the Quiz is identified or that user related identification data is stored in a system database as claimed (step b.). There is no teaching in the Prudential reference that data is collected from the user and stored in a database as claimed (step c.). Furthermore, the Prudential reference does not compare the test results and the question responses with a predetermined set of references to develop a set of characteristic data of the identified user and determine a personality type of the identified user from the characteristic data. Finally, the Prudential reference does not teach matching the personality type of the identified user with a corresponding personality based product or service.

Claims 14-17 depend from Claim 13 and, therefore, include the steps missing from the Prudential reference.

The Examiner stated that, as per Claim 18, the Prudential reference discloses selecting from a plurality of questions and tests specific ones of the questions and tests to be presented to the identified user during said step c. based upon data previously collected from the identified user. The Prudential Quiz is the same for every user and there is no selection of questions or tests to be presented.

The Examiner stated that, as per Claim 19, the Prudential reference discloses selecting a presentation medium for each of the questions and tests to be presented to the identified user. The Prudential Quiz presentation medium is the same for every user and there is no selection.

The Examiner stated that, as per Claim 20, the Prudential reference discloses performing said step d. by selecting one of a plurality of classification systems based upon a type of matching to be performed in said step e., each said classification system having an associated predetermined set of references. There is no selection of a classification system described in the Prudential reference.

The Examiner stated that, as per Claim 21, the Prudential reference discloses performing said step d. by selecting one of a plurality of scoring methods for scoring the results of the tests. There is no selection of scoring methods described in the Prudential reference.

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The Examiner stated that, as per Claim 22, the Prudential reference discloses performing said step e. by matching the identified user with the personality based product or service preferred by other users having a similar personality type. There is no matching with personality based products or services described in the Prudential reference.

The Examiner stated that, as per Claim 23, the Prudential reference discloses performing said step e. by obtaining context data from the identified user and matching the identified user with the personality based product or service associated with the identified user personality type and context data. The Prudential website does not obtain context data from the user.

The Examiner stated that, as per Claim 26, the Prudential reference discloses providing access to the system for an administrator, collecting information from the administrator, selecting the tests and questions to be presented to the identified user, performing said step c. with the selected tests and questions, and informing the administrator of the test results and questions responses. The Prudential reference does not teach or suggest providing access to the system for an administrator or any of the other steps defined by Claim 26.

The Examiner stated that, as per Claim 27, the Prudential reference discloses performing said step b. by assigning to the identified user a password selected by the administrator. The Prudential website does not assign a password to the user. The Prudential reference mentions a password for use in accessing financial accounts, but no password is required for the Quiz.

The Examiner stated that, as per Claim 28, the Prudential reference discloses permitting the administrator to select the corresponding product or service. As stated above, there is no administrator, corresponding product, or corresponding service.

The Examiner stated that, as per Claim 29, the Prudential reference discloses performing said step c. by presenting a series of questions to the identified user, at least one of the questions being selected based upon a response of the identifies user to a previous question in the series of questions. The questions in the Prudential Quiz are fixed and there is no selection of a question based upon a response to a previous question.

The Examiner stated that, as per Claim 33, the Prudential reference discloses performing said step c. by selecting an order of presentation of questions to the identified user. The order of the questions in the Prudential Quiz is fixed.

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The Examiner stated that, as per Claim 34, the Prudential reference discloses performing said steps a. through e. for a plurality of the individual users associated as a group. There is no disclosure in the Prudential reference that the website can identify a group of associated users.

The Examiner stated that, as per Claim 35, the Prudential reference discloses providing access to the system for an administrator, collecting information from the administrator, selecting the tests and questions to be presented to the identified users of the group, performing said step c. with the selected tests and questions, and informing the administrator of the test results and questions responses associated with the group. The Prudential reference does not teach or suggest providing access to the system for an administrator or any of the other steps defined by Claim 35.

The Examiner rejected Claims 24-25 and 30-32 under 35 U.S.C. § 103(a) as being obvious over the Prudential reference. The Examiner stated that, as per Claims 24 and 25, the Prudential reference discloses advising the identified user of the determined personality type (characteristic represented by the characteristic data). As stated above, the Prudential website does not identify the user.

According to the Examiner, the Prudential reference does not expressly disclose obtaining feedback data from the identified user and performing again said step d. including the feedback data in the comparison with the test results and the question responses. The Examiner stated that, however, the Prudential reference does teach that the method is flexible and open for review, and the system also directs the user on how to contact a financial advisor after the Quiz has been taken in order to discuss the results and possible future steps. Therefore, in the Examiner's opinion, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included obtaining feedback data from the identified user and performing again said step d. including the feedback data in the comparison with the test results and the question responses, as disclosed by Prudential, for the advantage of providing a method of providing personality based products/services, with the ability to continually update the products/or services based on changing customer needs/opinions.

The Prudential reference does not describe or suggest including feedback data in a comparison with test results and question responses. As explained above, the Prudential website does not identify a user and does not store either total points or answers to the questions. Thus,

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the financial advisor does not have available the tests results (unless the user remembers the "score" and/or the "zone" title) or the question responses. Also, the Prudential reference does not suggest how any "feedback" presented to a financial advisor should be used in a comparison of the test results ("score") and question responses with a predetermined set of references to develop a set of characteristic data of an identified user.

The Examiner stated that, as per Claim 30, the Prudential reference discloses advising the identified user of the determined personality type, obtaining feedback data from the identified user and performing again said step d. including the feedback data in the comparison with the test results and the question responses (see Claim 24 and 25 rejection), said step d. being performed by selecting one of a plurality of classification systems based upon a type of matching to be performed in said step e., each said classification system having an associated predetermined set of references. The above comments with respect to a lack of identified user and of feedback in the Prudential reference apply to this rejection. Also, the Prudential reference describes only one fixed classification system having three "zones" and there is no suggestion of selecting from "a plurality of classification systems based upon a type of matching to be performed".

The Examiner stated that, as per Claim 31, the Prudential reference discloses advising the identified user of the determined personality type, obtaining feedback data from the identified user (see Claim 24 and 25 rejection), utilizing the feedback data to change at least one of a scoring method for scoring the results of the tests and the personality type, and performing again said step d. The above comments with respect to a lack of identified user and of feedback in the Prudential reference apply to this rejection. Also, the Prudential reference describes only one fixed scoring method and there is no suggestion that the "personality type" can be changed after the test has been scored.

The Examiner stated that, as per Claim 32, the Prudential reference discloses advising the identified user of the determined personality type, obtaining feedback data from the identified user and performing again said step d. including the feedback data in the comparison with the test results and the question responses (see Claim 24 and 25 rejection), and performing said step e. by matching the identified user with the personality based product or service preferred by other users having a similar personality type. The above comments with respect to a lack of identified user and of feedback in the Prudential reference apply to this rejection. There is no suggestion in

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the Prudential reference of matching a user with any personality based product or service. All users, regardless of the results of the Quiz, can view the suggested actions in all three "zones".

The Examiner rejected Claims 3 and 9 under 35 U.S.C. § 103 as being unpatentable over the Prudential reference. The Examiner stated that the Prudential reference does not expressly show wherein said personality tests include the Keirsey Temperament Sorter. However, according to the Examiner, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The Examiner stated that the customer personal preference indicator would be performed regardless of the type of personality test used and, thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the Keirsey Temperament Sorter as the personality test, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As explained above, the Prudential reference has a single "application specific" test, since the Quiz is designed only for the limited application of determining a user's investment risk preference. There is no teaching of using a true personality test or multiple tests. The Keirsey Temperament Sorter is not the equivalent of the Prudential Quiz and could not be a substitution therefor.

Applicants amended step d. of claim 13 to delete "scoring the results of the tests" and added that limitation to Claim 36. The method defined by claim 13 can be performed by scoring the results of the tests either external or internal to the personality typing system. The above discussions of the claimed steps missing from the Prudential reference also apply to Claim 36.

The Examiner stated that additional Non-Patent Literature has been referenced on the attached PTO-892 form, and the Examiner suggests Applicants review these documents before submitting any amendments. The Examiner cited documents from: the PR Newswire; the Marketing New; the Financial Net News; the Business Times; and the Business Wire. Applicants reviewed these references and believe that they do not show or suggest the method and system defined by Claims 1-36.

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In view of the amendments to the claims and the above arguments, Applicants believe that the claims of record now define patentable subject matter over the art of record. Accordingly, an early Notice of Allowance is respectfully requested.